IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY EIGHTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

-

WRIT PETITION NO : 10063 of 2005

Between:

Syed Fasiuddin, s/o Syed Zainuddin,
r/o 2-2-55, Sheshabpet, Nirmal, Adilabad District.

..... PETITIONER

AND

The Regional Passport Officer,

Office situated Near Prashant Theatre,

Secunderabad.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue and appropriate writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the respondent in not receiving the application of the petitioner for issuing new passport on fresh application to the petitioner with date of birth entered as 5-5-1974 instead of 6-7-1970 as highly illegal and arbitrary. Any other relief deemed fit and proper be also granted to the petitioner.

Counsel for the Petitioner: MR.ABDUL NAJEEB KHAN

Counsel for the Respondent No.: MR.A.RAJASHEKAR REDDY (ASST.SOLICITOR GEN.)

The Court made the following :

ORDER:

Petitioner filed this writ petition seeking a declaration that the action of the respondent in not receiving his application for issuance of new passport with correct date of birth is illegal and arbitrary.

The grievance of the petitioner is that his correct date of birth is 05-05-1974, but in the passport issued to him, an arithmetical error had crept in and his date of birth was entered as 06-07-1970. When he approached the respondent-authority for issuance of new passport on fresh application with correct date of birth, the respondent-authority refused to receive the same. Therefore, the petitioner filed the present writ petition.

The learned Counsel for the petitioner submitted that as per the Secondary School Certificate of the petitioner, the correct date of birth is 05-05-1974, and the respondent-authority ought to have taken into consideration the said fact and received the application of the petitioner for issuance of a new passport with the correct date of birth. To substantiate the claim of the petitioner, reliance was placed on a Circular No.VI/401/2/5/2001, dated 18-04-2001, issued by the Government of India, Ministry of External Affairs.

Heard both sides, and perused the entire material available on record. In the Circular dated 18-04-2001 certain clarifications were issued, which read as under:

> ‘a. Where an applicant is seeking rectification/correction of a mistake in the entry on date of birth/place of birth in the passport. PIA may after verifying/satisfying himself, affect the correction treating the same as a technical correction. There is no need for a declaratory order in such cases.
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> b. Where a competent authority issuing a birth certificate or an educational board registering a date of birth along with place of birth as valid were to issue any correction or amendment. PIA may affect the necessary amendment in the passport without insisting on a Court Order. As per the provisions of Sec.21 if the general clauses Act, 1997, a competent authority issuing a certificate could also make necessary amendments to the same.

> c. Where the initial entry has been made on the basis of a supportive document issued by the competent authority i.e., school/educational authority and the applicant subsequently request for a change on the basis of a certificate issued by another competent authority i.e., Municipal authorities resulting in conflicting sources of valid proof. The PIA should direct the applicant to obtain a civil order from a competent Court of jurisdiction, certifying the valid date of birth/place of birth.'

As per the said circular, if any request for correction of date of birth in the passport is made, the Passport Issuing Authority is required to follow the aforementioned instructions. In view of the same, this is a matter, which has to be enquired into by the respondent-passport officer basing on the proof to be filed by the petitioner and pass appropriate orders.

Since no orders have been passed so far rejecting the claim of the petitioner, without going into the merits of the case, it would suffice if the writ petition is disposed of directing the respondent to accept the application of the petitioner and consider his claim for correction of date of birth as per the Circular No.VI/401/2/5/2001, dated 18-04-2001 issued by the Government of India, Ministry of External Affairs, and pass appropriate orders on merits.

With the observation as above, the Writ Petition is disposed of. There shall be no order as to costs.

28-04-2005

Note:

Issue CC in

Three days

B/o

LUR

Copy to:

1 The Regional Passport Officer,

Office situated Near Prashant Theatre,

Secunderabad.

2 Two CCs to the Asst. Solicitor General,

High Court Buildings, High Court of A.P.

Hyderabad.(O.U.T.)

3 Two CD copies.